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AUG 31 2005

BEFORE THE UNITED STATES PATENT OFFICE

Inventors: 1) Terrance William Sutherland
2) Stephen Fitzgerald
3) Frederic St. Laurent

Serial No: 10/672,060

Filed: September 29, 2003

Title: TUBULAR BASEBALL BATS WITH VARIABLE BARRELS

Art Unit: 3711

Confirm. No: 4727

Our File: CECOM-04.US (2043-3-04-10)

August 31, 2005

By Fax only: (571) 273-8300

The Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

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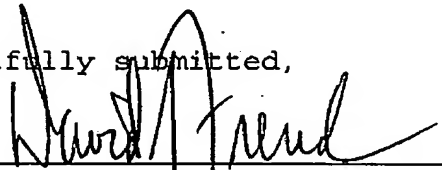
I, the undersigned Registered Patent Attorney, hereby certify that the documents delivered herewith are being transmitted by telephone facsimile to the United States Patent and Trademark Office on the above date.

The document being transmitted is as follows:

Response to Office Action (3 pages) together with
Schedule A (6 pages).

Respectfully submitted,

Per


David J. French
Reg. No. 31,229

— such documents have been transmitted in accordance with
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BEFORE THE UNITED STATES PATENTS AND TRADEMARKS OFFICE

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The Commissioner of Patents
P.O. Box 1450
Alexandria, VA
U.S.A. 22313-1450

Dear Sir:

Response to Office Action

This letter is in response to the examiner's office action of August 4, 2005.

Voluntary Amendments

In the Claims

Please amend the claims as set forth in Schedule A hereto. Please charge any required additional claims fees to Deposit Account No. 503035.

The amendments being made are merely of a grammatical character in order to maintain consistency with the claims.

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Election Requirement

The Examiner has issued an election requirement based on the premise that Figures 4, 5, 6, 7 or 8 all represent patentable distinct species of the claimed invention. Further, the Examiner has acknowledged that Claims 14 and 15 are generic.

With traverse, for reasons provided below, the Applicant elects the embodiment depicted in Figure 6. This figure is directed to a composite bat with either a special fiber treatment or a thickened mid-section region that provides reduced radial stiffness around the sweet spot with the object of broadening the dimensions of the sweet spot.

Claim 14 is generic and Claims 15 to 19 cover the Figure 6 embodiment by specifically referencing the presence of special polymer composite materials and treatment in the midsection portion. Additionally, Claim 20 covers the species of Figure 6 (as well as Figures 4, 5, 7 or 8), because all of these Figures include the feature that the barrel wall may have if increased thickness in the mid-sections of the barrel.

Claim 21 depends on Claim 20, adding that the thickness differences in the mid-section represents at least a 5% increase in thickness. Therefore, Claim 21 covers Figure 6.

Claims 31 to 36, with the present amendments to restrict them to dependency on Claims 15 to 21 read on Figure 6.

Claims 37 to 40 (all independent claims) read-on Figure 6 as they all are directed to a bat having a barrel wall comprising special polymer composite materials or treatment.

Claim 41 refers back to Claim 40 adding the dimensional limitations that the barrel wall thickness should be at least 5% greater in the mid-section. This claim therefore reads on Figure 6.

Claims 42 to 45 add in dependent form to Claims 37 to 41 the various mid-section proportions of 50%; 33 1/3%; 25% and 16 2/3% of the barrel length. As Claims 37 to 41 all refer to composite-character or mid-section treatment features to increase radial stiffness and broaden the sweet spot, these claims can be said to be exemplified by Figure 6.

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In summary, the Applicant elects Figure 6 and asserts that Claims 14 to 21, Claims 31 to 36 (when restricted to depend from Claims 15 to 21) and Claims 37 to 44 all address the specie of Figure 6.

This election is made with traverse since the Applicant submits that Figures 4, 5, 7 and 8 represent a single invention. However, that issue need not be addressed further because of the present election.

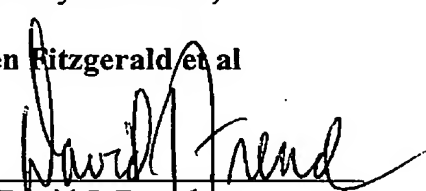
The Applicant understands that the other claims will now be withdrawn from Examination. However, if Claims 14 and 15 are eventually allowed, the withdrawn claims could be added back-in at the end as long as they depend on either Claim 14 or 15. If Claims 14 and 15 are refused, there is still a prospect that Claims 16 to 21; 31 to 36 (as amended) and Claims 37 to 44 which all focus on the special composite bat wall would be allowed. If this occurs, then the withdrawn claims could be reasserted in a Divisional application.

On this basis, the Applicant believes that he has fairly responded to the Examiner's Election Requirement and looks forward to receiving the Examiner search and first Office Action.

Respectfully submitted,

Stephen Fitzgerald et al

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